

# Utah Department of Health Child Care Licensing Program

## R381-70 Out-of-School-Time Child Care Programs Rule Interpretation Manual

### Introduction to Child Care Licensing

Every day, thousands of Utah children are being cared for outside of their own homes. Child Care Licensing serves Utah's communities by ensuring that child care facilities meet standards that keep children healthy and safe while in out-of-home care.

Child Care Licensing (CCL) is a program within the Bureau of Licensing and Certification under the authority of the Utah Department of Health. The purpose of the program is to ensure a healthy and safe environment for the children in child care settings through regulation of both residential and center child care facilities.

CCL staff are accountable to:

- Monitor child care facilities for compliance with federal and state laws and regulations.
- Offer technical assistance and training to child care providers.
- Ensure that all individuals involved with child care pass background checks.
- Investigate complaints that allege rule violations and unlicensed care.
- Inform parents and the public about child care in Utah. Each child care provider's public licensing record is available on the Child Care Licensing website at: [childcarelicensing.utah.gov](http://childcarelicensing.utah.gov).

### Child Care Licensing Vision

Access to safe, healthy child care for Utah families.

### Child Care Licensing Mission

To support working parents by protecting the health and safety of children in child care programs we oversee. This is accomplished by:

- Establishing and assessing health and safety standards.
- Training and supporting providers in meeting the established standards.
- Providing the public with accurate information about these child care programs.

### Code of Ethics

CCL has adopted the Code of Ethics published by the National Association for Regulatory Administration (NARA). The Code requires CCL employees to use their authority with integrity, thus prohibiting certain actions.

CCL employees will not:

- Use their positions for personal gain from those they regulate.
- Apply regulations inconsistently because of favoritism, nepotism, or personal bias.
- Regulate someone with whom they have or have recently had a significant financial or personal relationship.
- Exceed the authority delegated to them by laws and regulations.
- Accept services, favors or gifts, including food, treats, gift certificates, or handmade gifts from those they regulate.
- Depart from established CCL procedures therefore ensuring fair and objective enforcement.

A copy of the entire Code of Ethics is available on the CCL website at: [childcarelicensing.utah.gov](http://childcarelicensing.utah.gov).

## **Child Care Licensing Rules**

Utah wants the best for its children and therefore laws are enacted to promote the healthy growth, development, and protection of children. The Utah Child Care Licensing Act authorizes the Utah Department of Health, in conjunction with the Child Care Center Licensing Committee, to establish rules regarding child care that implement state law. The Department's Child Care Licensing program is delegated with the authority to interpret and enforce these rules that have the same effect as law. It is the child care provider's responsibility to understand and follow licensing rules in order to keep children safe and healthy.

Licensing rules focus on the foundational standards necessary to keep children safe and healthy while in care. The rules are based on current research and guidance from recognized experts in the field. A primary source of information is the publication *Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, 3rd Edition* (CFOC). It is published by the American Academy of Pediatrics, the American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education.

Licensing rules also reflect recommendations from the Consumer Product Safety Commission (CPSC) and ASTM International (ASTM). CPSC is a U.S. government agency responsible for ensuring the safety of consumer products including toys, furniture, and household chemicals. ASTM is a recognized leader in researching and setting standards that improve product quality and safety. Many products used in child care settings must meet ASTM specifications.

## **Inspection Process**

CCL ensures compliance to licensing rules through ongoing inspections of child care facilities, thus preventing the continued operation of substandard child care programs. These inspections are conducted by licensors who have child care experience and extensive training, including up-to-date and comprehensive training on playground safety from an industry-leading certification program.

During inspections, a licensor will:

- Inspect all rooms, indoor and outdoor areas (including sheds, garages, storage areas, campers, etc.), playground equipment, and items that are accessible to children in care.
- Check that there are no children or illegal items in rooms and areas that are inaccessible to children. A locked room will not need to be opened if there is a way for the licensor to view the entire room without unlocking it.

Please refer to "Section 2 - Definitions" to better understand the definition of "inaccessible".

To verify compliance with the rules and depending on the inspection type, a licenser may:

- Open and observe the contents of any container, drawer, cupboard, room, or area, etc. that is accessible to children.
- Ask clarifying questions.
- Review records – the facility's general paperwork, each covered individual's records, and the records kept for each child in care. A list of required records is found in the Appendix of this manual.
- Inspect each vehicle used to transport the children.
- Take pictures of items in order to better explain a situation to their manager and/or to be used as documentation of a rule violation.
- Interview staff, children, and/or parents of enrolled children.
- Ask for written statements.
- Record audio statements.
- Bring additional CCL staff to help with the inspection, depending on the size of the facility or as instructed by their supervisor.

The licensers use standardized checklists to ensure consistency for each inspection. These checklists are published on the CCL website at: [childcarelicensing.utah.gov](http://childcarelicensing.utah.gov).

CCL conducts several types of inspections that are described below.

#### Pre-License Inspection

This inspection is conducted before a new child care license is issued. At the Pre-License Inspection, an applicant for a child care license must demonstrate that they are in compliance with all licensing rules. It is also at this time that a licenser will measure the facility's square footage with a laser measure and assess other requirements in determining the facility's capacity.

#### Announced Inspection

An Announced Inspection is conducted annually at each facility to ensure that all licensing rules are in compliance. This inspection is scheduled with the child care provider and usually takes place 30 to 90 days before the license expiration date.

Depending on the size of the facility and the number of staff and enrolled children, the Announced Inspection takes approximately one to four hours to complete. The inspection process will proceed more quickly and smoothly if:

- The provider is not scheduled for other duties during the inspection, such as transporting children, preparing meals, etc.
- Keys to locked areas of the facility are readily available. Rooms and areas that are locked to make them inaccessible should not be unlocked until requested by the licenser.
- Vehicles are available to be inspected some time during the inspection.
- Required paperwork is completed, organized, and available for review.

#### Unannounced Inspection

Each facility will receive an Unannounced Inspection annually. This inspection is not scheduled with the provider and takes place sometime during the licensing year. Its purpose is for CCL to ensure that a child care provider is in compliance with licensing rules at all times a child is in care, even when an inspection is unexpected. The Unannounced Inspection takes less time to conduct because paperwork is generally not assessed.

### Follow-up Inspection

Licensors conduct a Follow-up Inspection to verify that any rule violations found in previous inspections are corrected, and to ensure that there are no new, serious violations. Follow-up Inspections are always unannounced.

### Complaint Investigation

In addition to the previously mentioned regular inspections, reports that allege rule violations are investigated by a complaint investigator. The type and scope of each investigation vary based on the information received in the complaint. Complaint Investigations can be announced or unannounced. An inspection checklist is not used because each investigation is specific to the complaint. Depending on the information received or witnessed, Complaint Follow-up Inspections may be conducted.

### Monitoring Inspection

This inspection is unannounced and conducted to check for specific compliance issues in facilities that are under a conditional license or certificate. The frequency of these inspections depends on the conditions set by CCL when the facility's child care license was placed on a conditional status.

### Focus Inspection

This type of inspection is conducted when there is a specific issue, unrelated to a complaint, that needs to be addressed outside of the regular Announced and Unannounced Inspections.

### After Each Inspection

At the end of or after each inspection, the licensor will:

- Inform the provider of the results of the inspection.
- Explain any rule violations to the provider.
- Give the provider an opportunity to discuss each item and provide feedback.
- Decide, with the provider, on a correction date for each item that is out of compliance. However, if an item poses a serious risk to the children, a date of correction may not be negotiated, but will be set by the licensor.
- Ask the provider to sign the electronic checklist as acknowledgment that the inspection was conducted and concluded. The provider's signature does not indicate their agreement with the results of the inspection.
- Email the checklist to the provider before leaving the facility.
- After management approval, send an Inspection Report to the provider explaining any rules found out of compliance, each rule violation's level of risk or harm, CCL's corrective action, and a due date for each rule violation to be corrected.
- Conduct an unannounced Follow-up Inspection to verify that all rule violations have remained or been corrected, and that there are no new, serious violations.

The provider will have an opportunity to give feedback to CCL about each inspection. Additionally, providers have 15 working days to appeal any action taken by CCL. This includes appealing CCL's determination of a rule violation, a corrective action, and the assessment of a Civil Money Penalty. The appeal period begins on the date that the provider receives official notification of a CCL action, such as receiving the Inspection Report.

## **Purpose and Use of the Interpretation Manual**

This manual has been prepared for child care owners, providers, staff working with the children, parents, and licensing staff to ensure statewide consistency in the understanding and enforcement of CCL rules. It provides a general overview of licensing rules and gives additional information to broaden knowledge about the intent and meaning of specific rules.

The manual is divided by rule categories into 21 sections with each section containing four main types of information:

- **Rule** – The actual rule text is printed in a black bold font.
- **Rationale / Explanation** – This explains the reason for a specific rule or section of rules, frequently describes best practice, and may give additional clarifying information.
- **Compliance Guidelines** – This provides guidance in achieving and maintaining compliance with a specific rule.
- **Risk and Corrective Action for 1<sup>st</sup> Instance** – This describes the level of risk or harm that occurred or is likely to occur due to a rule violation, and it indicates the first corrective action that CCL will take if the rule is violated. See “Section 5: Rule Violations & Penalties” for more information.

As our knowledge of what is best for children grows and as CCL engages in continuous improvement, this manual will be periodically updated. The manual is found on the CCL website at: [childcarelicensing.utah.gov](http://childcarelicensing.utah.gov).